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January 7, 1999

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JAN - 7 1999

Magalie Roman Salas, Secretary  
Federal Communications Commission  
1919 M Street, NW, Suite 222  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

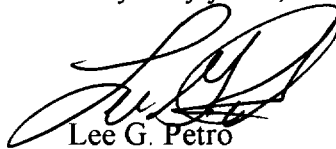
**RE : OPPOSITION OF GILLBRO COMMUNICATIONS L.P.**  
**MM Docket No. 97-130/RM-8751**

Dear Ms. Salas:

Transmitted herewith on behalf of Gillbro Communications Limited Partnership, the licensee of Radio Station KTWA(FM), Ottumwa, Iowa, is an original and four (4) copies of its Opposition to the Petition for Reconsideration filed by Galesburg Broadcasting Company in the above-referenced proceeding.

Should any further information be desired in connection with this matter, please communicate with this office.

Very truly yours,



Lee G. Petro

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Amendment of § 73.202(b)	)	Docket No. 97-130
Table of Allotments	)	
FM Broadcast Stations	)	RM-8751
(Galesburg, Illinois)	)	

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To: Chief, Allocations Branch

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**OPPOSITION OF GILLBRO COMMUNICATIONS, L.P.**

Gillbro Communications Limited Partnership ("Gillbro"), the licensee of Station KTWB(FM), Ottumwa, Iowa, by its attorneys, hereby submits its "Opposition" to the "Petition for Reconsideration" ("Petition") filed by Galesburg Broadcasting Company ("Galesburg") in the above-captioned proceeding.

Galesburg filed the Petition in response to the *Report and Order* issued by the Mass Media Bureau of the Federal Communications Commission ("FCC" or "Commission") on October 16, 1998, by which the Commission denied Galesburg's proposal for the upgrade of Station WLSR(FM) to a Class B1 facility.<sup>1</sup> Instead, the Commission granted the counter-proposal of Gillbro to upgrade Station KTWB(FM) to a Class C2 facility, based on the more significant service area and population served by Gillbro's counter-proposal. *R&O*, at ¶ 9.

Galesburg rests its Petition on the hope that the Commission will ignore nearly 10 years of precedent in comparing competing upgrade proposals, and will change its policies *in mid-*

<sup>1</sup> *Galesburg, Illinois and Ottumwa, Iowa*, DA 98-2068, rel. Oct. 16, 1998 [R&O]. The original Petition for Rulemaking was filed by Northern Broadcast Group, Inc. Galesburg acquired Station WLSR(FM) (formally WGBQ(FM)) from Northern Broadcast on July 2, 1997.

*stream* to consider the 57 dBu contour of a Class B1 facility, rather than the consideration of the 60 dBu contour, which the Commission has used since 1989. *Greenup, Kentucky and Athens, Ohio*, 4 FCC Rcd 3843 (1989). Furthermore, Galesburg also asks the Commission to disregard the engineering statement provided in the original proposal, despite its own incorporation and advocacy of the statement, and instead proposes new figures for the Commission to consider at this late date.

Galesburg's Petition for Reconsideration is completely without merit. The Commission has consistently applied the principle of using the 60 dBu contour to compare competing upgrade proposals. Such an attempt by Galesburg to change the policy of the Commission at this time should be dismissed. Equally as important is Galesburg repudiation of the engineering statement it has advocated for the past 18 months, in favor of a new engineering showing that does not comply with the Commission's rules and policies. Therefore, Galesburg's Petition for Reconsideration should be dismissed.

## **I. INTRODUCTION**

By way of background, Gillbro filed its application for a one-step upgrade on March 22, 1996. In accordance with Commission policy, this application was treated as a counter-proposal to Northern's Petition for Rule Making, which was filed on January 16, 1996.

The Commission released a Notice of Proposed Rulemaking on May 16, 1997, noting that the application of Gillbro's and the Petition for Rulemaking by Northern were mutually exclusive. As such, the Commission requested both parties provide an engineering analysis discussing the gain area created by their proposal, along with any potential loss area created by

amending the FM Table of Allotments.

In response, Galesburg filed its “Comments” on July 7, 1997 and attached as Exhibit C, a “Area and Population Study” conducted by its engineer. [*Engineering Statement I*] In describing the upgrade proposal, Galesburg stated:

[t]he WGBQ upgrade proposal is **straight-forward**...implementation of the proposed WGBQ upgrade would bring new service to a population of **38,553** persons in an area of 2,361.2 sq. km., and a withdrawal of service from a population of **1,993** persons in an area of 282.2 sq. km., for a net gain of **36,560** persons and **2079** sq. km.

*Comments*, pg. 3-4 [emphasis added]. These service area and population figures were supported by the Engineering Statement provided along with the Comments. Galesburg reinforced its support for its own proposal in its “Motion to Accept Further Comments”, filed on September 3, 1997. Attached to the pleading was an additional Engineering Statement that, again, stated that the Galesburg proposal would result in a gain of 2,361.2 square kilometers and 38,553 persons. [*Engineering Statement II*] For convenience, copies of both engineering statements are attached as Exhibit One to this pleading.

Based on Galesburg’s submissions, and those filed by Gillbro, the Commission reviewed the two proposals in its *Report and Order*. Comparing the relative strengths of both proposals, the Commission stated that “[t]he parties **agree** that the proposed Class B1 upgrade for Station WLSR at Galesburg would result in a net service gain to **36,560** persons in an area of **2,080** square kilometers.” *R&O*, ¶ 6 [emphasis added]. In addition, the Commission stated that its own analysis was substantially similar “with the net population and area gains submitted by Galesburg Broadcasting and Gillbro Communications.” *Id.* ¶ 7.

In light of the universal agreement between the Commission, Gillbro, *and* Galesburg on

the matter of the net population and area gains articulated in Galesburg's proposal, the Commission compared these figures to Gillbro's proposal. On the basis of this comparison, the Commission determined that Gillbro's proposal will result in service to a greater gain area and that "it would serve 1,535 more persons than the competing upgrade at Galesburg." *Id.* ¶ 8.

## **II. ARGUMENT**

### **A. GALESBURG CANNOT ASK THE COMMISSION TO DISREGARD ITS OWN PROPOSAL**

Despite the detailed analysis of the respective merits of the Galesburg and Gillbro proposals contained in the *Report and Order*, Galesburg now asks the Commission to reconsider its grant of Gillbro's application. Incredulously, a partial basis for Galesburg's request is that it believes the Commission "did not describe the assumptions or processes upon which its calculation of the WLSR gain area was based." *Petition*, at pg. 2.

However, the above-referenced statements in the *Report and Order* clearly show that the Commission based its decision on the analysis provided by Galesburg, along with engineering analysis by the Commission and Gillbro. Galesburg now requests that the Commission disregard both *Engineering Statement I* and *Engineering Statement II*, and instead, only consider its engineering statement attached the Petition to Deny [*Engineering Statement III*] which directly contradicts the previous studies conducted by all three parties. As discussed below, the merits of the "new" analysis ignore substantial Commission precedent. Regardless of this "new" analysis, though, Galesburg cannot now disregard *its own* analysis, and ignore the Commission's reliance on its analysis, now that the Commission has decided

against its proposal.

**B. GALESBURG'S NEW ENGINEERING STUDY IS IN DIRECT CONFLICT WITH COMMISSION PRECEDENT, AND SHOULD BE IGNORED.**

In its *Petition*, Galesburg states that the Commission misapplied its own rules, and incorrectly considered the coverage area of its proposal. Rather than consider the 60 dBu service contour, Galesburg argued that the Commission should have used the 57 dBu contour, since this is the predicted service contour for a Class B1 facility. *Petition*, at pg. 3. By considering the 57 dBu, Galesburg argues, its proposal would actually serve 23,502 more persons than Station KTWB(FM) would by operating as a Class C2 facility. *Petition*, pg. 4. The Engineering Statement attached to the *Petition* also argued that the Commission should utilize the Class B1 service contour of 57 dBu. *Engineering Statement III*, at 3.

This novel argument has been presented to the Commission before, and soundly rejected. In *Greenup, Kentucky and Athens, Ohio*, the Commission established the criteria for comparing competing proposals that serve areas adequately served by other radio stations. 2 FCC Rcd 4319 (1987). The Commission stated that, under these circumstances, "it is appropriate...to ascertain which proposal will bring the benefits of a new primary service to the larger population." *Id.* ¶ 11. In doing so, the Commission based its analysis on the "primary service radius" for the particular class of stations. Initially, the Commission determined that the "primary service radius" for a Class B1 facility would be based on its maximum facilities (25 kW at 100 meters HAAT), which would establish a radius of 45 kilometers. *Id.* ¶ 12.

However, upon reconsideration, the Commission reversed its decision to utilize the 57 dBu contour for B1 facilities, and instead, adopt one "exclusive standard for comparing

stations' areas of coverage". *Greenup, Kentucky, and Athens, Ohio*, Memorandum Opinion and Order, 4 FCC Rcd 3843, ¶ 14 (1989). Rather than focusing on the specific class of station involved in each comparative proceeding, the Commission concluded that "it appears most appropriate to compare and consider the coverage areas of all classes of FM stations using common guide rules." *Id.* As such, the Commission stated that it would utilize the 1 mV/m contour (60 dBu) contour for all classes of FM stations, regardless of the fact that a Class B1 facility is protected to its 57 dBu contour. *Id.*

Finally, as detailed in the Engineering Statement, attached as Exhibit Two, the Commission does not consider the 57 dBu contour for Class B1 facilities in any other respect, except as to the determination of predicted interference. Instead, when looking at any station's limit of coverage, the Commission consistently focuses on the 60 dBu contour. Exhibit Two, pg. 1. Thus, although the Commission may *protect* a Class B1 facility to its 57 dBu contour, the Commission will only predict *coverage* of a Class B1 facility to its 60 dBu contour.

Therefore, despite Galesburg's efforts to the contrary, the Commission has already specifically reviewed, and dismissed, the identical argument presented by Galesburg. Beyond the fact that Galesburg would now ask the Commission to review a "new" engineering analysis, this analysis is based on a misinterpretation of Commission precedent.

### **III. CONCLUSION**

In light of these considerations, Galesburg's Petition for Reconsideration must be denied. Not only does Galesburg request that the Commission disregard the engineering analysis that it presented in support of its proposal, but the engineering analysis it now supports

directly contradicts Commission precedent. In addition, the Commission has already conducted a detailed analysis of the two proposals, and properly articulated the basis for its decision.

Thus, Gillbro Communications Limited Partnership hereby respectfully requests that the Petition for Reconsideration filed by Galesburg Broadcasting Company be denied.

Respectfully Submitted,

**GILLBRO COMMUNICATIONS  
LIMITED PARTNERSHIP**

By

A handwritten signature in dark ink, appearing to read "Vincent A. Pepper", is written over a horizontal line.

Vincent A Pepper  
Lee G. Petro

Its Attorneys

Pepper & Corazzini, L.L.P.  
1776 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 296-0600

January 7, 1999



## **EXHIBIT ONE**

1. Engineering Statement of Donald L. Markley, dated July 2, 1997, attached as Exhibit C to the "Comments of Galesburg Broadcasting Company", filed with the Federal Communications Commission on July 7, 1997.
  2. Engineering Statement of Donald L. Markley, dated August 28, 1998, attached to the "Further Comments of Galesburg Broadcasting Company", filed with the Federal Communications Commission on September 3, 1997.
-

**AREA AND POPULATION STUDY**

The following engineering statement and attached exhibits have been prepared for Galesburg Broadcasting Company, licensee of FM Broadcast Station WGBQ at Galesburg, Illinois and are in support of their comments regarding a Petition for Rulemaking (RM-8751, MM Docket No. 97-130).

In the Notice of Proposed Rulemaking released by the Commission on May 16, 1997, the Commission requested the Petitioner to prepare an engineering analysis on the size and number of people in the gain area created by the proposed upgrade as well as the area and population of any possible loss. This statement and the attached exhibits constitute the requested study.

The attached map shows the area within the 1.0 mV/m. contour of the licensed WGBQ facility. It also demonstrates the 1.0 mV/m. contour which would result from a station operating as a Class B1 with maximum facilities and located at the requested reference coordinates. A third area represents the area where service from WGBQ would be lost.

- 2 -

As shown on the attached tables, a total of 38,553 people would be added to the WGBQ service area while 1,993 would lose service resulting in a net gain in the service area of 36,560 people. With regard to area, a total area of 2,361.2 sq. kilometers would be added. When combined with a lost service area of 282.2 sq. kilometers, the net gain in area would be 2079.0 sq. kilometers.

The preceding statement and attached exhibits have been prepared by me or under my direction and are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Donald L. Markley, P.E.

Subscribed and sworn to before me this 24 Day of July, 1997.

\_\_\_\_\_  
Notary Public

My commission expires:

**COMPARISON STUDY**

	<u>Area</u>	<u>Population</u>
WGBQ Proposed	4670.6 sq. km.	98,848
WGBQ Licensed	2309.4 sq. km.	60,295
WGBQ Loss	282.2 sq. km.	1,993

	<u>Area</u>	<u>Population</u>
Added Service	2361.2 sq. km.	38,553
Lost Service	282.2 sq. km.	1,993
Net Gain	2079.0 sq. km.	36,560

1990 Population Count

Title: WGBQ Proposed  
Audit File: pcx07027.A01

Latitude: 41-02-50  
Longitude: 90-27-30

Azimuth	Dist (km)	Azimuth	Dist (km)	Azimuth	Dist (km)
0.00	38.10	45.00	37.60	90.00	35.90
135.00	37.50	180.00	38.30	225.00	39.50
270.00	42.30	315.00	39.00		

Block Level Count Displayed by City and State  
Area of contour : 4670.620 square km  
Area of contour : 1803.336 square mi

1990 Population Count

Title: WGBQ Proposed  
Audit File: pcx07027.A01

Latitude: 41-02-50

Longitude: 90-27-30

	Houses	Total	White	Hisp	Black	Asian	AmIn	other
Illinois, Fulton County								
County Total:	11	22	22	0	0	0	0	0
Illinois, Henderson County								
County Total:	872	1685	1671	3	5	3	3	0
Illinois, Henry County								
County Total:	3964	10017	9865	93	22	15	17	5
Illinois, Knox County								
County Total:	22488	53572	48934	1409	2802	317	82	28
Illinois, Mercer County								
County Total:	6222	15295	15111	90	30	32	32	0
Illinois, Rock Island County								
County Total:	521	1402	1382	17	0	2	1	0
Illinois, Warren County								
County Total:	7217	16855	16199	204	353	68	19	12
State Total :	41295	98848	93184	1816	3212	437	154	45

1990 Population Count

Title: WGBQ Licensed  
Audit File: pcx07027.A02

Latitude: 40-57-43  
Longitude: 90-18-30

Azimuth	Dist (km)	Azimuth	Dist (km)	Azimuth	Dist (km)
0.00	25.50	45.00	26.00	90.00	27.80
135.00	28.60	180.00	28.20	225.00	26.90
270.00	27.10	315.00	26.70		

Block Level Count Displayed by City and State  
Area of contour : 2309.439 square km  
Area of contour : 891.679 square mi

1990 Population Count

Title: WGBQ Licensed  
Audit File: pcx07027.A02

Latitude: 40-57-43

Longitude: 90-18-30

	Houses	Total	White	Hisp	Black	Asian	AmIn	other
Illinois, Fulton County								
County Total:	138	336	336	0	0	0	0	0
Illinois, Henry County								
County Total:	498	1159	1132	21	4	0	2	0
Illinois, Knox County								
County Total:	22979	54765	50122	1414	2802	317	82	28
Illinois, Mercer County								
County Total:	355	884	881	1	0	2	0	0
Illinois, Peoria County								
County Total:	32	81	81	0	0	0	0	0
Illinois, Warren County								
County Total:	1259	3070	3046	13	2	0	9	0
State Total :	25261	60295	55598	1449	2808	319	93	28



1990 Population Count

Title: WGBQ Loss Area  
Audit File: pcx07027.A04

Latitude: 40-47-52  
Longitude: 90-02-43

Azimuth	Dist (km)	Azimuth	Dist (km)	Azimuth	Dist (km)
0.00	15.20	10.00	26.00	20.00	17.50
30.00	10.60	40.00	0.00	50.00	0.00
60.00	0.00	70.00	0.00	80.00	0.00
90.00	0.00	100.00	0.00	110.00	0.00
120.00	0.00	130.00	0.00	140.00	0.00
150.00	0.00	160.00	0.00	170.00	0.00
180.00	0.00	190.00	0.00	200.00	0.00
210.00	0.00	220.00	1.00	230.00	10.30
240.00	19.70	250.00	27.00	260.00	10.60
270.00	8.60	280.00	7.60	290.00	7.00
300.00	6.90	310.00	7.00	320.00	7.20
330.00	7.90	340.00	8.90	350.00	10.90

Block Level Count Displayed by City and State

Area of contour : 282.163 square km  
Area of contour : 108.944 square mi

1990 Population Count

Title: WGBQ Loss Area  
Audit File: pcx07027.A04

Latitude: 40-47-52  
Longitude: 90-02-43

	Houses	Total	White	Hisp	Black	Asian	AmIn	other
Illinois, Fulton County								
County Total:	199	488	488	0	0	0	0	0
Illinois, Knox County								
County Total:	586	1414	1408	5	0	0	1	0
Illinois, Peoria County								
County Total:	36	91	91	0	0	0	0	0
State Total :	821	1993	1987	5	0	0	1	0

Client: WGBQ

ERP= 25 KW. ( 13.979 dBk.)

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AZIMUTH DEG. T.	HAAT m.	DISTANCE TO CONTOURS IN KM. (MI)	
		70 dBu	60 dBu
0.0	96.8	22.7 ( 14.1)	38.1 ( 23.7)
45.0	94.2	22.4 ( 13.9)	37.6 ( 23.4)
90.0	84.3	21.1 ( 13.1)	35.9 ( 22.3)
135.0	93.2	22.3 ( 13.9)	37.5 ( 23.3)
180.0	98.4	22.9 ( 14.2)	38.3 ( 23.8)
225.0	106.6	23.9 ( 14.9)	39.5 ( 24.5)
270.0	123.6	25.7 ( 16.0)	42.3 ( 26.3)
315.0	103.0	23.5 ( 14.6)	39.0 ( 24.2)

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Client: WGBQ LICENSE

ERP= 3.8 KW. ( 5.798 dBk.)

AZIMUTH DEG. T.	HAAT m.	DISTANCE TO CONTOURS IN KM. (MI)	
		70 dBu	60 dBu
0.0	99.4	14.5( 9.0)	25.5( 15.8)
45.0	103.0	14.7( 9.1)	26.0( 16.2)
90.0	119.5	15.8( 9.8)	27.8( 17.3)
135.0	128.3	16.5( 10.3)	28.6( 17.8)
180.0	123.7	16.1( 10.0)	28.2( 17.5)
225.0	110.0	15.0( 9.3)	26.9( 16.7)
270.0	112.2	15.2( 9.4)	27.1( 16.8)
315.0	109.1	15.0( 9.3)	26.7( 16.6)

**ENGINEERING STATEMENT**

The following engineering statement and attached exhibit have been prepared for Galesburg Broadcasting Company and are in support of their Reply Comments of Gillbro Communications Limited Partnership ("Gillbro") in the matter of the amendment of Section 73.202(b), Table of Allotments, of the Federal Communications Commission's Rules and Regulations (Docket No. 97-130, RM-9751).

In their comments, Gillbro claims to show comparison of the area and population which would be served by their proposed allocation on channel 244C2 at Ottumwa, Iowa. That would be for their station KTWA(FM). However, the comments as filed are significantly misleading.

All of the comments filed by Gillbro claim to show the difference between a Class A KTWA operating at 6.0 KW. and a proposed Class C2 operation for KTWA that would operate with an ERP of 50.0 KW. with the center of radiation at 150 meters above average terrain.

- 2 -

Gillbro claims that this is appropriate even though they are only operating with an ERP of 3.0 KW. at the present time. However, this would still be incorrect. The allocation on channel 244 is for a Class C3 facility. The comments for that allocation, as contained in the Commission's database, show that channel to be reserved for KTWa per Docket No. 89-365. In other words, the facilities which should be shown as the maximum possible for KTWa under the existing Table of Allotments should be for a Class C3 station, not a Class A.

Studies have been completed for KTWa operating as a Class C3 station with the improvement in area and population shown on the attached exhibit. If KTWa were to increase its facilities from a Class C3 to a Class C2, the total increase in area would be 1,549 sq. km. with an increase in population of 16, 249. For WLSR to increase from a Class A to a Class B1, the increase in area would be 2,362 sq. kilometers with an increase in population of 38,553.

- 3 -

Gillbro repeatedly argues that the Commission should go with the proposal which offers the greatest improvement in service. Galesburg Broadcasting Company agrees as that increase is clearly greatest for WLSR.

It is apparent that the most efficient use of the spectrum would be for KTWB to improve its facilities to the maximum for the assigned class by going to the equivalent of 25.0 KW. ERP at 100 meters above average terrain along with the upgrade in class for WLSR from a Class A to a Class B1. This combination would result in an increase in area served by the two stations of 4,336 sq. kilometers with a population of 69,011 in the improvement area.

Gillbro further attempts to show improvement in areas which receive up to five other services. No argument is taken with the areas and population shown by Gillbro which would receive the improved service from WLSR. However, the exhibits and claimed improvement areas and population for KTWB are significantly in error and must be disregarded. In particular, Gillbro has failed to show another station which exists in Ottumwa.

- 4 -

KOTM-FM at Ottumwa currently operates as A Class A station with an application on file to increase to a Class C3 facility. This is clearly shown in the Commission's current database.

In addition to missing KOTM-FM, Gillbro unfortunately missed WHO at Des Moines. WHO operates on 1040 KHz. with 50 KW. utilizing a non-directional antenna pattern on a full-time basis. As a Class A station, the entire area to be served by any proposed facility at Ottumwa lies within the interference free contour of WHO. Therefore, their table, which purports to show population receiving fewer than five services, is fatally flawed and must be disregarded. In particular, the area and population identified "four other services" becomes part of the larger number which would become five or more other services. The number for "three other services" would partially apply to that area identified as "four other services". Part of the "four other services" area and population would be served by the Class C3 facility for KOTM-FM. In addition, a large portion of that area and population would also be served by a

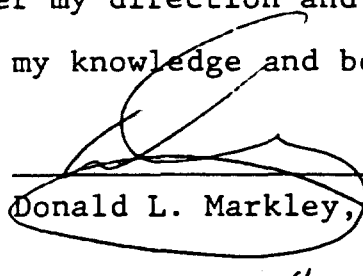


- 5 -

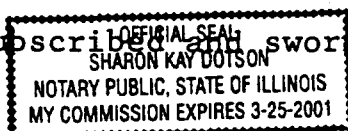
correctly plotted and configured KTWa based on a Class C3 allocation.


In summary, the contours shown for KTWa are incorrect as they are for a non-existent 6.0 KW. Class A facility as opposed to being shown for the Class C3 allocation which actually exists. In addition to that problem, services provided to the area which would be served by the proposed KTWa are not shown on the comparative maps. Therefore, that portion of their comparative study is unusable. The attached exhibit clearly shows that the improvement by WLSR from a Class A to a Class B1 facility offers a significant advantage in area and population as compared to the improvement of KTWa from a Class C3 to a Class C2 facility.

The preceding statement and attached exhibit have been prepared by me or under my direction and are true and correct to the best of my knowledge and belief.

  
Donald L. Markley, P.E.

Subscribed and sworn to before me this 20 Day of August, 1997.



  
Notary Public

**AREA AND POPULATION COMPARISON**  
**KTWA; OTTUMWA, IA AND WLSR; GALESBURG, IL**

	CLASS A	CLASS B1/C3	CLASS C2
AREA:			
KTWA	2591 SQ.KM.*	4565 SQ.KM.	6114 SQ.KM.*
WLSR	2309**	4671**	

POPULATION:

KTWA	47,601*	78,059	94,308*
WLSR	60,295**	98,848**	

\*Comments of Gillbro Communications Limited Partnership

\*\*Comments by Galesburg Broadcasting Company

COMPARISON OF GAINS:

	AREA	POPULATION
KTWA FROM C3 TO C2:	1,549 SQ. KM.	16,249
WLSR FROM A TO B1:	2,362 SQ. KM.	38,553

MOST EFFICIENT USE OF SPECTRUM:

KTWA IMPROVES TO MAXIMUM FOR THEIR CLASS FACILITY.  
WLSR UPGRADES FROM CLASS A TO CLASS B1.

GAIN: AREA: 4336 SQ. KM.

POPULATION: 69,011

## **EXHIBIT TWO**

Engineering Statement of Neil M. Smith, dated December 4, 1998.

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of GILLBRO COMMUNICATIONS LIMITED PARTNERSHIP, licensee of KTWa(FM), Ottumwa, Iowa, in support of its Opposition to the Petition for Reconsideration in MM Docket No. 97-130 of Galesburg Broadcasting Company, licensee of WLSR(FM), Galesburg, Illinois.

In this proceeding, KTWa proposed a change to Class C2, while WLSR proposed a change to Class B1. Because the KTWa change would afford the greatest increase in the population served, the Commission granted the KTWa proposal.

WLSR now seeks reconsideration on the novel ground that the Commission compared 60 db $\mu$  contours, whereas it should have considered the proposed WLSR 57 db $\mu$  contour, because it proposed operation as a Class B1 station. The Commission must reject this argument.

In §73.213(a)(1) and in §73.215(a)(1) the protected service contour for a Class B1 station is shown as the 57 db $\mu$  contour. However, these are the only two places where this reference occurs. Indeed, §73.215(a)(1) stated, in part, ". . . the protected contours, for the purpose of this section, are . . . " (emphasis added). No other section of the Rules refers to the 57 db $\mu$  contour.

Instead, when considering the limit of coverage, the 60 db $\mu$  contour is cited consistently. FCC Form 301 calls for the submission of the 70 db $\mu$  and 60 db $\mu$  contours in applications for stations of all classes. Other references in the Rules:

- §73.210(b) sets forth "reference distances" for the several classes of station, and §73.211(b)(1) defines the "reference distance" as the distance to the 1 mv/m [60 db $\mu$ ] contour.
- § 73.211(c) states that a grandfathered super-power station may not extend its 1 mv/m [60 db $\mu$ ] contour beyond the location of its present contour.
- §73.315(c) states that the "transmitter location should be selected so that the 1 mv/m [60 db $\mu$ ] contour encompasses the urban population within the area to be served."

Unfortunately, the Rules no longer provide any definition of FM signal levels. In 1980, §73.315(b) of the Rules stated, "inasmuch as service may be provided by signals of 1 mv/m [60 db $\mu$ ] or greater field strengths in metropolitan areas, and inasmuch as signals as low as 50 mv/m may provide service in rural areas . . . ." In Commission hearings for many years, showings of FM service have always employed the 60 db $\mu$  contour for stations of all classes.

There is a good reason for this. The quality of reception depends on the strength of the received signal, and the receiver has no way of knowing what class of station produced the signal. The fact is that the Commission has adopted the 60 db $\mu$  contour as its assumed limit of FM service. That the Commission elected to afford a greater level of protection for Class B and B1 stations does not mean that the assumed limit of their service is anything but 60 db $\mu$ .



NEIL M. SMITH

December 4, 1998

CERTIFICATE OF SERVICE

I, Susan A. Burk, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that on this 7th day of January, 1999, copies of the foregoing Opposition of Gillbro Communications Limited Partnership were mailed, postage prepaid, to the following:

Donald E. Ward, Esq.  
1201 Pennsylvania Avenue, N.W.  
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(counsel to Galesburg Broadcasting Co.)

Sharon P. McDonald, Esq.                   \*  
Mass Media Bureau  
Allocations Branch  
Federal Communications Commission  
2000 M Street, NW  
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Washington, DC 20554

\*Indicates Hand Delivery

A handwritten signature in cursive script, reading "Susan A. Burk", is written over a horizontal line.

Susan A. Burk